

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Nov 18, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

-vs-

WAYDE LYNN KURT,
Defendant.

Nos. 2:10-CR-0114-WFN-1
2:11-CR-0161-WFN-1

**ORDER DENYING MOTIONS FOR
REDUCTION IN SENTENCE AND
COMMUNITY CORRECTIONS
FACILITY PLACEMENT**

Pending before the Court are Defendant's Motions for Immediate Reduction in Sentence and Motion for Community Corrections Facility Placement. Defendant has exhausted his claim with the Bureau of Prisons [BOP]. See ECF No.75, Exhibit 2.

Mr. Kurt must demonstrate that "(i) extraordinary and compelling reasons warrant such a reduction; or (ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c) . . . and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g)." 18 U.S.C. § 3582(c)(1)(A). As Defendant is not over 70 years old, he must demonstrate that extraordinary and compelling reasons warrant reduction.

Defendant has not demonstrated extraordinary or compelling reasons warranting a sentence reduction. Defendant claims to have conditions that increase his risk of serious illness or death should he contract COVID-19, but the medical documentation indicates that he refused diagnostic testing that would have allowed medical personnel to make a diagnosis. Hence, there is no evidence that Mr. Kurt is at heightened risk. Mr. Kurt's underlying conviction was serious and suggestive that he may be a danger to the public. As a part of his involvement in the white supremacist movement he actively had planned to

1 harm people. At the time of sentencing Mr. Kurt's criminal history category was a VI, the
2 highest category available. Mr. Kurt has not demonstrated extraordinary or compelling
3 reasons supporting his release or conversion of his sentence to home confinement. The
4 Court has reviewed the file and Motion and is fully informed. Accordingly,

5 **IT IS ORDERED** that:

6 1. Defendant's Motion for Immediate Reduction in Sentence, filed on July 27, 2020,
7 **2:10-CR-0114-WFN-1 ECF No. 230** and **2:11-CR-0161-WFN-1 ECF No. 73**, is
8 **DENIED.**

9 2. Defendant's Motion for Community Corrections Facility Placement, filed on
10 October 13, 2020, **2:10-CR-0114-WFN-1 ECF No. 232** and **2:11-CR-0161-WFN-1 ECF**
11 **No. 75**, is **DENIED.**

12 The District Court Executive is directed to file this Order and provide copies to
13 counsel.

14 **DATED** this 18th day of November, 2020.

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16 WM. FREMMING NIELSEN
17 SENIOR UNITED STATES DISTRICT JUDGE

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